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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,
Plaintiff,

vs.

Donald Day, Jr.,
Defendant.

CR-23-08132-PCT-JJT

**GOVERNMENT'S RESPONSE TO
DEFENDANT'S MOTION TO STAY
ORDER PERMITTING GOVERNMENT
TO OBTAIN DEFENDANT'S
FINGERPRINTS**

Background

This Court entered an order for fingerprinting on September 18, 2024. (Doc. 90). Shortly thereafter the parties began scheduling a time and place for the fingerprinting to occur. Defense counsel accurately detailed the history of the communications regarding scheduling. The agreed upon date, November 19, 2024, was selected and arrangements were made with multiple parties to accommodate transportation.

It was not until Tuesday, November 12, 2024, that defense counsel reached out to the government to request a change to that schedule. That parties conferred, and in part

1 because of the fingerprinting expert's schedule, the government was not able to
2 accommodate the defendant's request to relocate the fingerprinting.

3 **Defendant's Request Should be Denied**

4 In addition to the late timing of the request, defense did not provide any additional
5 medical records or evidence to support the request. While undersigned counsel is aware
6 of some medical history, she is not aware of any current medical issues that would make
7 defendant unable to travel to the courthouse for fingerprinting for one day. Transportation
8 to the Tucson courthouse includes a bus ride of less than two hours and a short wait to be
9 fingerprinted at 10:00 a.m. and then a return by bus. This is not a lengthy or strenuous
10 event.

11 The government requested medical records from CCA Friday, November 15,
12 shortly after receiving Defendant's motion. We requested and expedited response, as soon
13 as possible before the emergency hearing today. Counsel has conferred with the records
14 department this morning and hope to receive the records before the hearing today. Should
15 those records justify a need to accommodate the defendant's medical needs, the
16 government will certainly work to schedule a time for fingerprinting that accommodates
17 all those involved.

18 Additionally, undersigned counsel conferred with the fingerprinting expert
19 regarding her schedule. She is unavailable to travel out of Tucson this week due to prior
20 obligations. Should the Court order that this pre-scheduled event be rescheduled to a
21 location to accommodate the defendant, the expert can review her schedule to see if there
22 is a time where travel to the detention facility can be accomplished.

23 Given the late notice, the multiple parties involved in the scheduling, and the lack
24 of medical evidence supporting defendant's request, the request to stay the Court's order
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1 should be denied and fingerprinting should take place tomorrow, November 19, at the
2 Tucson Courthouse as previously scheduled.

3 **Conclusion**

4 For all the reasons discussed above, Defendant's motion to stay the Court's order
5 should be denied.

6 Respectfully submitted this 18th day of November 2024.

7 GARY M. RESTAINO
8 United States Attorney
9 District of Arizona

10 s/Abbie Broughton Marsh
11 ABBIE BROUGHTON MARSH
12 Assistant U.S. Attorney

13 **Certificate of Service**

14 I hereby certify that on November 18, 2024, I electronically transmitted the attached
15 document to the Clerk's Office using the CM/ECF System for filing and transmittal of a
16 Notice of Electronic Filing to the following CM/ECF registrants: Mark Rumold.

17 s/ Alexandria Gaulin
18 U.S. Attorney's Office
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